



Economic Impact Analysis Virginia Department of Planning and Budget

22 VAC 15-10 – Public Participation Guidelines
Child Day-Care Council
December 15, 2005

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The Child Day-Care Council (council) proposes to amend its Public Participation Guidelines to specify that only the council is authorized to respond to petitions to amend or add regulations and to clarify that the Department of Social Services (DSS) may act on behalf of the council in certain circumstances. The council, or the DSS on behalf of the council, will be required to inform all interested parties of any notice of intended regulatory action (NOIRA) and will be required to accept and consider public comments before drafting regulations and before approving final regulations. Pursuant to Chapter 717 of the 1995 Acts of Assembly, the council also proposes to exercise discretion as to whether notices of public comment period need be published in the newspaper.

Estimated Economic Impact

Current Public Participation Guidelines allow either the council or DSS to respond to petitions suggesting a regulatory change. Because Code of Virginia §2.2-4007 requires that rule making entities respond to petitions for possible rule changes, the proposed regulation will

require the council, only, to respond to any petitions for changes to council regulations that are submitted either to the council or to DSS. The public will benefit from this regulatory change to the extent that it eliminates confusion as to what entity holds actual rule making power.

Current regulation allows the Commissioner of DSS to undertake certain actions such as delivering NOIRAs to the Registrar of Regulations and soliciting public comment on proposed regulations after they are approved by the council. Current regulation also mandates that the council mail or email NOIRAs to all interested parties and make provisions to accept comment on disseminated NOIRAs. The proposed regulation clarifies that DSS may undertake all of these actions on behalf of the council. This is a clarification of regulatory language that reflects current DSS and council policy. To the extent that current regulation does not reflect actual administrative process practice and, therefore, may be confusing, this change will be beneficial.

Current regulation requires that the council make provisions for accepting comments during the rule making process both at the NOIRA and proposed stages. The proposed regulation expands on this by listing the provisions that the council has made to accept comments and mandating that the council consider received comments both while they are drafting regulations and before they approve final regulations. Specifically, DSS will be charged with accepting comments during the NOIRA and proposed stages of the regulatory amendment process. While the council is required by the proposed regulation to consider comments at both stages, DSS is only explicitly required to provide any submitted comments, and a summary of those comments, to the council at the end of the proposed stage comment period.

This emphasis on proposed stage comments may not allow the council to give due weight to the views of regulated entities or the interested public when they are drafting a regulation as is required by both the Administrative Process Act and Executive Order 21. It is likely that the public would benefit more from a process under which comments given at either stage are considered equally.

Currently, the council is required to solicit comments on proposed regulations by publishing a notice of comment period in a newspaper of general circulation. Pursuant to Chapter 717 of the 1995 Acts of Assembly, the council proposes to exercise discretion as to whether this notice need be published. DSS, acting for the council, has the ability at this time to notify all regulated entities and other interested parties of intended regulatory change through their email

system. Additionally, newspaper notifications do not appear to be a useful or efficient tool to solicit comment as DSS reports that they have received few or no comments via this method in the past. This regulatory change is very likely to have no ill effect on the public and will save the council several hundred dollars per proposed regulation.

Businesses and Entities Affected

There are currently 2,831 child day centers that are licensed by the Commonwealth and will be affected by the proposed regulation; most of these are small businesses.

Localities Particularly Affected

The proposed regulation will affect all localities in the Commonwealth.

Projected Impact on Employment

The proposed regulation is likely to have no impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property

The proposed regulation will have no effect on the use or value of private property.

Small Businesses: Costs and Other Effects

Small businesses should benefit from this clarification of the council's Public Participation Guidelines.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed regulation will not have an adverse impact on affected small businesses.